IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 26793 of 2007(M)

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AGAINST THE ORDER IN EP 8/2004 IN
OS.21/2002 of SUB COURT, NEDUMANGAD

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PETITIONERS:

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1. B.L.ALLOSSIOUS,DHANYA BHAVAN,
KOOLLAMAN,PANNIYODE P.O.,VEERANAKAVE VILLAGE.

2. B.K.SYAMALAKUMARI,
W/O. B.L.ALLOSSIOUS,DHANYA BHAVAN,
KOOLLAMAN,PANNIYODE P.O.,VEERANAKAVE VILLAGE.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENT:

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THE MANAGER,
STATE BANK OF TRAVANCORE,
POOVACHAL BRANCH.

BY SC SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 7/9/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**M.N.KRISHNAN, J**

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**W.P.(C) No.26793 OF 2007**

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**Dated this the 7th day of September 2007**

**JUDGMENT**

This writ petition is filed against the order of the Sub Judge, Nedumangad in E.A.No.112 of 2007 in E.P.No.8 of 2004 in O.S.No.21 of 2002 whereby he had directed to issue warrant of arrest against judgment debtors 2 and 3 for realisation of amount due under a decree. Learned counsel for the petitioners submits that there is landed property and the decree holder can also proceed against the salary for attachment. In an execution petition, unless it is a mortgage decree, the court cannot direct or modulate how to execute the decree.

2. Heard the learned counsel for the decree holder also. I am informed that both the judgment debtors are employees of the Kerala State Road Transport Corporation and there is no purpose in sending them to jail. Therefore, in order to give a breathing time for them to raise the amount and discharge the decree debt, I am inclined to grant some time as follows:(1) Petitioners are directed to pay an amount of Rs.25,000/-(rupee twenty five thousand only) on or before 17.10.2007 to the decree holder, (2) They are

directed to deposit or pay the balance amount in 3 equal monthly instalments commencing from 17.11.2007, (3) If they commit breach of default of initial payment or any of the instalments, then the decree holder is at liberty to request the court to issue warrant of arrest for detaining them in civil prison. Until then, the order of arrest shall stand deferred.

Writ petition is disposed of as above.

**M.N.KRISHNAN, JUDGE**

**Cdp/-**